

Court of Appeals, State of Michigan

ORDER

Thomas M Fanning v William Beaumont Hospital

Mark J. Cavanagh
Presiding Judge

Docket No. 290721

Kathleen Jansen

LC No. 2008-090281-NH

Elizabeth L. Gleicher
Judges

The Court orders that the application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.

Jansen, J., would grant the application for leave to appeal. In *Holman v Rasak*, 281 Mich App 507 (2008), this Court addressed whether ex parte interviews by defense counsel are allowable under HIPAA. However, the *Holman* panel did not consider whether a trial court could expressly condition the grant of an ex parte interview on attendance by the other party's counsel. I would note that allowing the plaintiff's counsel to attend a defense attorney's "ex parte" interview seems inherently inconsistent with the nature and purpose of an "ex parte" interview. It appears to me that the trial court erred, at least to the extent that it conditioned its grant of the ex parte interview on attendance by the adverse party's counsel.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL - 7 2009
Date

Sandra Schultz Mengel
Chief Clerk